



JOHN A. SIMS  
Paralegal

BNSF Railway Company  
2500 Lou Menk Drive  
AOB-3  
Fort Worth, TX 76131-2828

P.O. Box 961039  
Fort Worth, TX 76161-0039

Telephone: 817-352-2376  
Fax: 817-352-2397  
E-mail: John.Sims@BNSF.com

EI-2451  
CD

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DATE: 7/3/06 TIME: 2:55 p.m.  
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TO: Christa Dean  
ADDRESS: STB  
FAX NUMBER: (202) 565-9000

\*\*\*\*\*

FROM: JOHN A. SIMS

Re: AB6-432X

TELEPHONE NUMBER: (817) 352-2376

SPECIAL INSTRUCTIONS: This ~~is~~ is regarding  
Condition #3 in the STB decision  
Served on 2/24/06. Thx, John

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REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NORTH DAKOTA REGULATORY OFFICE  
1513 SOUTH 12<sup>TH</sup> STREET  
BISMARCK ND 58504-6640  
July 28, 2006

North Dakota Regulatory Office

[200560549]

Mr. John A. Sims  
BNSF – Law Department  
2500 Lou Menk Drive, 3<sup>rd</sup> Fl  
Fort Worth, Texas 76131-2828

Dear Mr. Sims:

This is in reference to your request, on behalf of **Burlington Northern & Santa Fe Railway Company (BNSF)**, for a Department of the Army (DA) review in accordance with Section 404 of the Clean Water Act. The BNSF's project consists of the abandonment of the railway and the salvage of track materials along 7.12 miles of BNSF railway line between milepost 137.09 near Grafton, North Dakota and milepost 144.21 near Voss, North Dakota.

Based on the information provided to this office in your **July 28, 2006** e-mail, it has been determined that your proposed project, as presently described, is not subject to DA regulatory authorities. Therefore, no permit is required from the Corps of Engineers. However, DA authorization may be required should changes be made in your project.

Although a DA permit will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state, tribal or local permits as required.

If you have any questions concerning this determination, please do not hesitate to contact this office by letter or telephone (701) 255-0015 and reference project number **200560549**.

Sincerely,

Daniel E. Cimarosti  
Regulatory Program Manager  
North Dakota